

Applicants: Parruck et al.  
Serial No.: 09/539,461  
Filing Date: March 30, 2000  
Docket No.: AZA-006

### REMARKS

Reconsideration and allowance is respectfully requested.

Before entry of this amendment, claims 1-21 were pending. In the Office Action, claims 1-21 were rejected. In the present amendment, claims 1, 4, 11 and 21 are amended. After entry of the amendment, claims 1-21 are pending.

#### I. Claims 1 – 21

Claims 1 – 21 are rejected under 35 U.S.C. § 102(e) as being anticipated by Kaplan et al. (USP 6,141,339) (Office Action, p. 2, lines 13-14). Applicants disagree. Kaplan does not form the basis for a valid rejection under § 102(e) because Kaplan does not disclose all of the limitations of claims 1 – 21.

##### A. Independent claim 1

Kaplan does not form the basis for a valid rejection of claim 1 under § 102(e) because Kaplan does not disclose all of the limitations of claim 1. Claim 1 recites “a packet switch device configured to switch packets among a plurality of ports, said packet switch device being operatively coupled to said second circuit to receive said ATM cell-containing packet through a first port and to switch said ATM cell-containing packet to a second port as if said ATM cell-containing packet is a packet of the type normally switched by said packet switch device”.

The Examiner states, with regard to claim 1, that Kaplan discloses “a packet switch device 441 (figure 4) configured to switch packets among a plurality of ports, said packet switch being operatively coupled to said second circuit to receive said ATM cell-containing packet through a first port and to switch said ATM cell containing packet to a second port as if said ATM-cell containing packet is a packet of the type normally switched by said packet switch device” (Office Action, p. 2, line 23 – p. 3 line 3).

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Kaplan does not disclose a packet switch device. Item 441 in figure 4 of Kaplan is not a packet switch, but rather an ATM switch. (See Kaplan, col. 6, line 35). Moreover, ATM switch 441 is not configured to switch packets among a plurality of ports, as is the packet switch device recited in claim 1. Kaplan explains:

“If an internet session is attempted by an end user at residence 102 using computer 214, LAN card 330 in hub 204 at residence 102 will receive the connection request and forward it to Java card 320. Java card 320 will send a control message to session manager 442 at service node 140. Session manager 442 will instruct ATM switch 441 to establish an SVC from mux 120 to internet 170 through ATM network 150.” (Kaplan, col. 15, line 61 – col. 16, line 1).

“When a computer at the residence attempted an Internet communication, the proxy would intercept the IP packet. It could either translate the IP address into a destination and provides [sic] it to the session manager, or simply forward the IP address [to] the session manager. Either way, the session manager would set up an ATM SVC to the destination. The legacy application of the computer could communicate using IP addressing, but would be supplied with ATM connections using the proxy.” (Kaplan, col. 15, line 61 – col. 16, line 1) (emphasis added).

Kaplan explains that an ATM SVC is an ATM switched virtual circuit. See Kaplan, col. 3, lines 59-60. ATM switch 441 is not “a packet switch device configured to switch packets among a plurality of ports.” ATM switch 441 does not switch packets among a plurality of ports, and the Examiner does not point to any such disclosure in Kaplan.

The Examiner makes an alternative argument in the “Response to Arguments” section the Office Action. There, the Examiner argues that as an alternative to device 441 of figure 4, a “LAN/Router 204” is a packet switch device. The Examiner states, “Kaplan discloses LAN/Router 204 (packet switch device), wherein the LAN/router 204 providing conversion and transmission data between a LAN card 330 (packet data) and ATM card 324 or ADSL/ATM

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interface 310. See figure 3, col. 5 line 20 to col. 6 line 20.” (Office Action, p. 5, lines 11-14)

Kaplan does not disclose a “LAN/Router 204”. The item 204 shown in figure 2 is a hub. Figure 3 contains no item 204. Thus, “LAN/router 204” cannot provide conversion between LAN card 330 and ATM card 324 or ADSL/ATM interface 310 of figure 3. Although hub 204 does provide “a LAN/router function” to computers, hub 204 does not switch packets among a plurality of ports. Kaplan states:

“Hub 204 also provides a LAN/router function to the computers. For example, hub 204 could be equipped with an Ethernet interface for connection to the computers. When a communications request is made by one of the computers, hub 204 routes the request to the service node. ATM interface 206 can integrate voice, video, and data over high-bandwidth ATM connections for the telephones and computers. ATM interface 206 provides ATM cells to ADSL modem 206 for transport to mux 220. Mux 220 is connected to SONET ring 230” (Kaplan, col. 15, line 61 – col. 16, line 1) (emphasis added).

Thus, hub 204 does not switch packets but rather routes communications over ATM connections.

Figure 3 of Kaplan discloses a hub 304 that includes LAN card 330, ATM card 324, and ADSL/ATM interface 310. The card communicates through an ATM backplane 314 [incorrectly marked in figure 3 with numeral 312]. See Kaplan, col. 5, lines 49- 54. Hub 304 of figure 3 also does not switch packets among a plurality of ports. Instead, the cards on hub 304 communicate through an ATM backplane, and no packet switching occurs. The Examiner admits that data is transmitted in hub 304 as ATM cells instead of as packets. The Examiner states, “A packet data from LAN card 33[0] is converted to ATM cell, which is then transmitted to ATM card 324 port or ADSL/ATM interface 310 port the ATM network.” (Office Action, p. 5, lines 17-19) The Examiner does not argue that

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Kaplan then discloses attaching a packet header to the ATM cell and thereby forming an ATM cell-containing packet, which is switched.

Because Kaplan does not disclose a packet switch device configured to switch packets among a plurality of ports, Kaplan does not disclose all of the elements of claim 1. Reconsideration of the § 102(e) rejection and allowance of claim 1 is requested.

B. Independent claim 13

Kaplan does not form the basis for a valid rejection of claim 13 under § 102(e) because Kaplan does not disclose all of the limitations of claim 13. Claim 13 recites "A router for routing both ATM cells and packets . . . , comprising . . . a third circuit coupled to said first circuit and said second circuit for aggregating selected ones of said ATM cells and selected ones of said packets into a combined data stream that contains data from both said selected ones of said ATM cells and said selected ones of said packets and outputting said combined data stream".

The Examiner does not state, with regard to claim 13, that Kaplan discloses a router that aggregates packets and ATM cells into a combined data stream. And indeed Kaplan does not disclose such a router. Moreover, Kaplan does not disclose a combined stream containing both packets and ATM cells.

The Examiner instead makes an alternative argument in the "Response to Arguments" section the Office Action. There, the Examiner argues that an ATM cell and a packet are really the same thing. The Examiner argues, therefore, that a switch that switches ATM cells must also be considered a router that routes packets, so long as the switch/router is not a circuit switch. The Examiner states, "ATM cell is also packet data because the cell or the packet having information in its headers used for switching or routing by the packet switch, which is different from the circuit switch." (Office Action, p. 5, lines 15-17)

The Examiner has presented no reference or support for the argument that packet-only switches (that do not switch ATM-cells) do not exist. It is

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improper for the Examiner to ignore the distinction made in Applicants' specification and claims between a packet, an ATM cell and an ATM cell-containing packet. Claim 13 recites the term "ATM cells" as distinct from the term "packets". The specification states, "Typically speaking, ATM traffic or packet traffic do not mix in the same unchannelized optical fiber" (Specification, paragraph [0004]). "The invention offers . . . the ability to use packet-only network and switching resources to handle a mix of ATM cells and packets or even ATM cells alone" (Specification, paragraph [0012]).

Because Kaplan does not disclose a router that aggregates packets and ATM cells into a combined data stream, Kaplan does not disclose all of the elements of claim 13. Reconsideration of the § 102(e) rejection and allowance of claim 13 is requested.

#### C. Independent claim 4

Kaplan does not form the basis for a valid rejection of claim 4 under § 102(e) because Kaplan does not disclose all of the limitations of claim 4. Claim 4 recites, "A method for allowing both packets and ATM (Asynchronous Transfer Mode) cells to be routed via a packet switch, said packet switch routing packets that conform to format requirements, comprising . . . formatting said ATM cells to fit said format requirements of said packet switch, thereby creating ATM cell-containing packets" (emphasis added).

The Examiner states, with regard to claim 4, that Kaplan discloses "a method for allowing both ATM (Asynchronous Transfer Mode) cells and packets to be routed via a packet switch, comprising . . . formatting said ATM cells to fit requirements of said packet switch, thereby creating ATM cell-containing packets . . . See col.6 lines 39" (Office Action, p. 3, lines 13-20).

Kaplan does not disclose formatting ATM cells to fit the requirements of a packet switch. The Examiner points to a location in Kaplan that discloses ATM switch 441 as opposed to a packet switch. ATM switch 441 is not a packet switch and does not switch packets or ATM cell-containing packets. Hub 204 of

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figure 2 and hub 304 of figure 3 are also not packet switches. Moreover, Kaplan does not disclose formatting ATM cells to fit the requirements of a non-disclosed packet switch.

Because Kaplan does not disclose formatting ATM cells to fit the requirements of a packet switch, Kaplan does not disclose all of the elements of claim 4. Reconsideration of the § 102(e) rejection and allowance of claim 4 is requested.

D. Dependent claims 2 and 3

Dependent claims 2 and 3 are rejected as being anticipated by Kaplan. (See Office Action, p. 3, lines 9-12). Applicants disagree. Claims 2 and 3 depend from claim 1 and are, therefore, allowable for at least the same reasons for which claim 1 is allowable.

E. Dependent claims 5 – 12

Dependent claims 5 – 12 are rejected as being anticipated by Kaplan. (See Office Action, p. 3, line 21 – p. 4, line 12). Applicants disagree. Claims 5 – 12 depend directly or indirectly from claim 4 and are, therefore, allowable for at least the same reasons for which claim 4 is allowable.

F. Dependent claims 14 – 21


Dependent claims 14 – 21 are rejected as being anticipated by Kaplan. (See Office Action, p. 4, line 1 – p. 5, line 5). Applicants disagree. Claims 14 – 21 depend directly or indirectly from claim 13 and are, therefore, allowable for at least the same reasons for which claim 13 is allowable.

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## II. Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully submit that the entire application (claims 1-21 are pending) is in condition for allowance. Applicants respectfully request that a timely Notice of Allowance be issued in this case. If the Examiner would like to discuss any aspect of this application, the Examiner is requested to contact the undersigned at (925) 621-2121.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

By   
Darien K. Wallace

Date of Deposit: October 25, 2004

Respectfully submitted,



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*"Annotated Marked-up Drawing"*

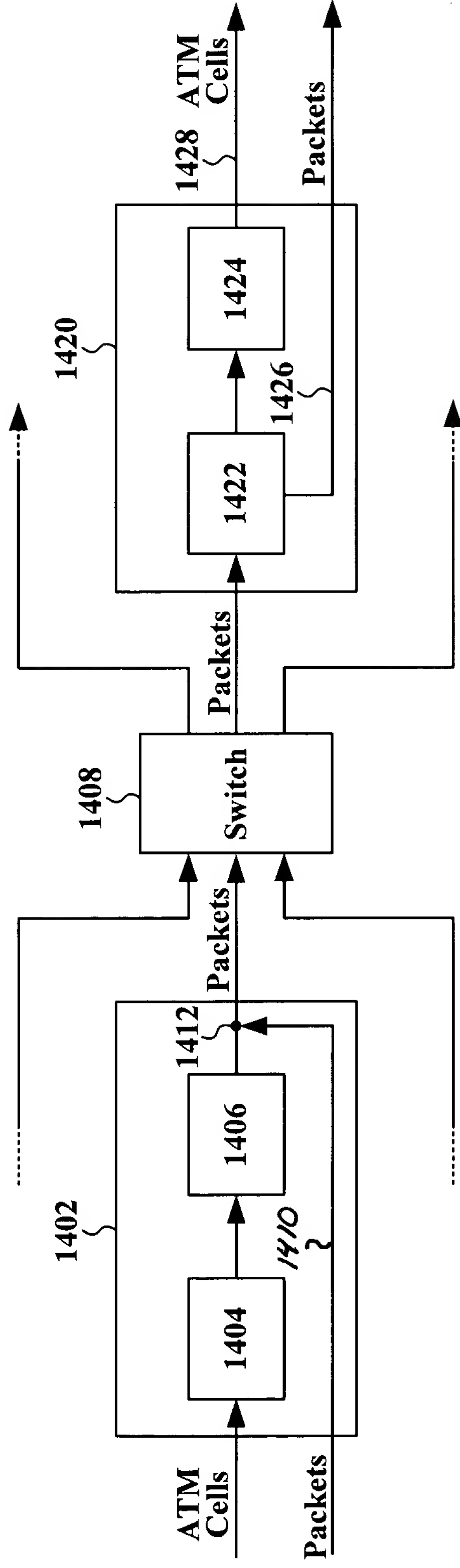


FIG. 14